

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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CHRISTOPHER JONES,

Plaintiff,

v.

HOWARD SKOLNIK, et al.,

Defendant.

Case No. 3:10-CV-0162-LRH (VPC)

**ORDER**

This order concerns two discovery motions that plaintiff Christopher Jones (“plaintiff”) filed with the court: (1) plaintiff’s motion to compel (#239); and (2) plaintiff’s motion to determine sufficiency of admissions (#253). Each is addressed in turn.

**I. Plaintiff’s Motion to Compel (#239)**

On February 25, 2014, this court held a motions hearing during which the court considered several discovery disputes, one of which is plaintiff Christopher Jones’s (“plaintiff”) motion to compel discovery pursuant to FRCP 37(a) (#239). Defendant Jeremiah Schultz (“defendant”) opposed (#246) and plaintiff replied (#250). The court ruled on several of the disputed discovery requests, but also ordered defendant’s counsel to submit *in camera* documents responsive to requests for production of document Nos. 1 and 2, and interrogatories Nos. 21, 22, and 23 (#257). Defendant’s counsel submitted the forty-eight documents *in camera*, and this order follows.

Request for production (“RFP”) No. 1 requests “[a] copy of all documents relating to your employment separation/termination from the NDOC” (#239, p.3). RFP No. 2 requests “[a] copy of all use of force and any other report generated or written as a result on the incident

1 involving this Plaintiff in the Unit 3A hallway at SDCC on 6-1-07.” *Id.* at 5. Interrogatory Nos.  
2 21, 22, and 23 state as follows:

3 No. 21: Please state with specific detail the reasons surrounding  
4 your termination or seperation (sic).

5 No. 22: Please identify all documents generated as a result of the  
6 reason for your termination or seperation (sic) that outlines the  
7 underlying cause in detail.

8 No. 23: Please identify all documents including use of force  
9 reports relating to the inmate that suffered injuries at your hands or  
10 officers under your direct control or supervision that may or may  
11 not have been related to your termination or separation.

12 *Id.* at 8.

13 The court reviewed the documents submitted in camera concerning defendant’s Schultz’s  
14 separation from employment with NDOC, and those records reflect that defendant Schultz  
15 resigned his employment with the Nevada Department of Corrections (“NDOC”) to work in the  
16 private sector and nothing more. There is nothing in defendant Schultz’s documents produced  
17 related to use-of-force reports (Int. No. 23), or the incident involving plaintiff in the Unit 3A  
18 hallway as SDCC on June 1, 2007 (RFP. No. 2). Cynthia Wilden, the NDOC records manager,  
19 provided a declaration that the documents produced are the documents responsive to these  
20 discovery requests.

21 The court is satisfied that defendant and the NDOC have produced the documents as  
22 ordered, and that they shall not be produced to plaintiff because they are not likely to lead to the  
23 discovery of admissible evidence in this case. Plaintiff’s motion to compel (#239) is denied in  
24 part as it concerns these disputed discovery issues. The court will shred the documents produced  
25 *in camera*.

## 26 **II. Motion to Determine Sufficiency of Admissions (#253)**

27 Plaintiff also filed a motion to determine sufficiency of admissions (#253), which drew  
28 defendant’s motion to strike for failing to meet and confer before filing the motion pursuant to  
Fed.R.Civ.P. 37 (#258). Plaintiff opposed the motion to strike (#259), and defendant replied

1 (#267). Plaintiff also filed a motion for order shortening time, given the approaching discovery  
2 cutoff date (#260).

3 Plaintiff's motion concerns requests for admissions propounded on or about December 2,  
4 2013, to defendant Mustafaa, and by these requests, plaintiff is asking defendant Mustafaa to  
5 authenticate certain documents (#253). The record reveals that defendant Mustafaa responded to  
6 the requests for admissions in late December, and plaintiff then sent a letter in which he outlined  
7 his objections concerning the responses. *Id.* at 253, pages 33-46. In a letter dated February 4,  
8 2014, defendant Mustafaa's counsel replied in a four-page, single-spaced letter with an  
9 explanation about the disputed responses. *Id.* at #253, pages 50-53. By that letter, defendant  
10 Mustafaa's counsel provided a detailed response to each discovery disputes, and also provided  
11 first supplemental answers to fifty-eight of plaintiff's then sixty requests for admission. *Id.*  
12 Counsel also requested that if the letter response was unsatisfactory, that plaintiff meet and  
13 confer before filing a motion to compel. *Id.* Plaintiff did not meet and confer and, instead, filed  
14 the present motion.

15 As a preliminary matter, the court agrees with defendant Mustafaa that plaintiff failed to  
16 meet and confer in the wake of his counsel's detailed letter, which attempted to resolve many of  
17 the objections plaintiff raised. This alone warrants granting defendant Mustafaa's motion to  
18 strike. However, in the interest of managing the court's already congested docket in this case,  
19 the court will address plaintiff's motion (#253).

20 The court has reviewed defendant Mustafaa's supplemental responses, and they will  
21 stand; therefore, plaintiff's motion to determine sufficiency of requests for admissions (#253) is  
22 denied. Defendant Mustafaa's motion to strike (#258), although well taken, is denied in the  
23 interests of concluding this latest round of discovery disputes in this case.

### 24 **III. Conclusion**

25 **IT IS ORDERED AS FOLLOWS:**

- 26 1. Plaintiff's motion to compel (#239), is **DENIED** to the extent outlined in this  
27 order;
- 28 2. Plaintiff's motion to determine sufficiency of admissions (#253) is **DENIED**;

4. Plaintiff's motion for ordering shortening time (#260) is **DENIED**.

Dated this 10<sup>th</sup> day of April, 2014.

Valerie P. (book)

UNITED STATES MAGISTRATE JUDGE